

87-563

Supreme Court, U.S.

FILED

OCT 7 1987

JOSEPH F. SPANIOL, JR.
CLERK

Case No. _____

United States Supreme Court
October Term, 1987

Irena Kalvans,
Petitioner,

v

Court of Appeals,
Respondent.

On Appeal from Supreme Court of Michigan
Petition for Writ of Certiorari

Irena Kalvans
In propria persona
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Tel. 313-884-3318

6pp

EDITOR'S NOTE

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Question Presented for Review

Did the Michigan Supreme Court violate Petitioner's constitutional right to due process of law under the Fourteenth Amendment and decisions of the United States Supreme Court, when it denied Petitioner's Complaint against the Michigan Court of Appeals for Superintending Control to direct the said court to decide Petitioner's appeal?

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Cases

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Statement of the Grounds

The Michigan Court of Appeals has failed to decide the appeal of Irena Kalvans, hereinafter referred to as the Petitioner, within a reasonable time.

The Michigan Supreme Court has declined to exercise its power of superintending control, set forth in the Michigan Constitution, the Michigan statutes, the Michigan Court Rules, and Michigan decisions, to direct the Michigan Court of Appeals to decide the Petitioner's appeal. The declination of the Michigan Supreme Court is in violation of the decisions of the United States Supreme Court with respect to the federal question of due process of law under

the Fourteenth Amendment. The statutory provision authorizing this Petition is 28 U.S.C. #1257(3).

Constitutional Provision Involved

Amendment 14, Section 1

"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person the equal protection of the laws."

Statement of the Case

On July 3, 1986, Petitioner filed her appeal with the Michigan Court of Appeals. On January 13, 1987, Petitioner received a Notice from the Michigan

Court of Appeals that her appeal would be submitted for a decision on the merits on February 4, 1987. On the seventh of July, 1987, Petitioner filed a complaint for Superintending Control in the Michigan Supreme Court against the Michigan Court of Appeals. The Michigan Supreme Court denied the aforesaid complaint for superintending control to direct the Michigan Court of Appeals to decide Petitioner's appeal.

Statement of Facts

After 13 and a half years of satisfactory service, on November 2, 1984, Petitioner was dismissed from her employment as an Assistant Attorney General with the State of Michigan. The

documents tendered to Petitioner in connection with her dismissal showed the fraudulent nature of the termination of her employment. On May 23, 1985, the administrative law judge issued his decision upholding the dismissal and reciting findings of fact which had absolutely no support of any kind whatsoever in the record. This fraudulent decision was upheld by the Michigan Employment Relations Board, the Michigan Civil Service Commission and the Ingham County Circuit Court. In his decision, the circuit judge fraudulently recited that the aforesaid decisions were supported by competent, material and substantial evidence on the whole record.

Petitioner appealed the fraudulent decision to the Michigan Court of Appeals on July 3, 1986 and received notification from the Michigan Court of Appeals on January 13, 1987 that her case would be submitted for a decision on the merits on February 4, 1987. The reason that the Michigan Court of Appeals decision is now eight months late is because Arthur Lombard and Frederica Lombard communicated to Petitioner that the circuit judge was the "farewell robber" and Petitioner has taken extraordinary precautions to remain alive. The Lombards communicated to Petitioner that they would suborn deliberately obvious perjury from the Michigan Depart-

ment of Attorney General, which they did. The Lombards communicated to Petitioner that they would have Petitioner terminated from her employment with "silly cons;" "makeup;" "garbage;" "crap;" "shit;" "a bunch of bullshit;" and "overruled cases and repealed statutes," which they did. The foregoing facts are contained in the Petitioner's verified Motion for Order Authorizing Substituted Service of Process, which was filed in Wayne County Circuit Court Case No. 87-715176-NZ, entitled, "Irena Kalvans versus Arthur Lombard and Frederica Lombard." The Lombards communicated to Petitioner that they would have the fraudulent dismissal upheld at appe-

llate levels by bribery, which they did, and this fact is set forth in said verified motion. The Lombards communicated to Petitioner that they would murder Petitioner to put a "cap" on their "Million Dollar Laugh," and this fact is set forth in said verified motion.

Petitioner contacted the secretary of Robert Danhof, Chief Judge of the Michigan Court of Appeals and requested an appointment to dicuss the bribery of the Michigan Court of Appeals. Judge Danhof's secretary advised Petitioner to contact the Judicial Tenure Commission and that Judge Danhof would take no action himself. When Michigan Court of Appeals Judge Jerome Bronson was in-

dicted for bribery, Petitioner read in The Detroit News that Judge Danhof had met with the complaining attorney. Petitioner contacted the seven secretaries for the seven Michigan Supreme Court Justices and requested an appointment to discuss the bribery of the Michigan Court of Appeals. On July 16, 1987, Petitioner received a letter from Corbin Davis, Clerk of the Michigan Supreme Court that he had been contacted by several of the Michigan Justices and asked to respond. In his letter, Davis refers Petitioner to the Judicial Tenure Commission. Mr. Davis also states as follows:

"If the outcome of your action in the Court of Appeals is unfavorable,

you may then apply for leave to appeal to this Court. Because the Justices might eventually be in a position to rule on cases regarding alleged impropriety in your case, they cannot consider those charges at this time."

If the Michigan Supreme Court had not been bribed by Lombards, it would not require Petitioner to wait an average 45 months to presumably reverse a bribed decision. The Court would have directed that a different panel of three Michigan Court of Appeals judges be appointed to decide the Petitioner's appeal.

On July 7, 1987, Petitioner filed a Complaint in the Michigan Supreme Court against the Michigan Court of Appeals for an order of superintending control directing the Court of Appeals to decide Petitioner's appeal. The Michigan Sup-

preme Court denied Petitioner's Complaint for Superintending Control.

Argument

In Allegheny County v Frank Mashuda Co., 360 U.S. 185, 79 S. Ct. 1060, 3 L. Ed. 2d 1163, rehearing denied 361 U.S. 855, 80 S. Ct. 41, 4 L. Ed. 2d 93 (1959), the United States Supreme Court ruled that promptness of decision is an element of justice:

"We hold that in such circumstances a District Court cannot refuse to discharge the responsibility imposed by Congress under 28 U.S.C. §§ 1332 and 1441, to render prompt justice in cases where its jurisdiction has been properly invoked." (Page 187) (Emphasis supplied) . . .

"It exacts a severe penalty from citizens for their attempt to exercise rights of access to the federal courts granted them by Congress to deny them 'that promptness of decision which in all judicial actions is one of the

elements of justice.' Forsyth v Ham-
mond, 166 U.S. 506, 513."
(Pages 188-189)

In the instant case, this principle of law has been violated by both the Michigan Court of Appeals and the Michigan Supreme Court. The Michigan Court of Appeals has failed to decide Petitioner's appeal and the Michigan Supreme Court has denied Petitioner's Complaint for Superintending Control. Both Michigan courts have violated Petitioner's right of due process of law set forth Section 1 of the Fourteenth Amendment.

In Boddie v Connecticut, 401 U.S. 371, 91 S. Ct. 780, 28 L. Ed. 2d 113 (1971) the United States Supreme Court ruled that the United States Constitution requires that the opportunity be

granted at a meaningful time:

"What the Constitution does require is 'an opportunity ... granted at a meaningful time and in a meaningful manner,' Armstrong v Manzo, 380 U.S. 545, 552 (1965) (emphasis added by Court), 'for [a] hearing appropriate to the nature of the case,' Mullane v Central Hanover Tr. Co., supra, at 313.'" (page 378)

The United States Supreme Court said in Boddie, supra, at page 375, that, without the due process concept of the Fourteenth Amendment, the States' monopoly over techniques for binding conflict resolution could hardly be said to be acceptable. The Boddie, supra, Court said that the States' dispute resolution mechanism must function strictly within the bounds of the due process clause of

the Fourteenth Amendment to maintain a just society. See the Court's opinion at page 375, which reads in pertinent part as follows:

"American society, of course bottoms its systematic definition of individual rights and duties, as well as its machinery for dispute resolution, not on custom or the will of strategically placed individuals, but on the common-law model. It is to courts, or other quasi-judicial bodies, that we ultimately look for the implementation of a regularized orderly process of dispute settlement. Within this framework, those who wrote our original Constitution, in the Fifth Amendment, and later those who drafted the Fourteenth Amendment recognized the centrality of the concept of due process in the operation of this system. Without this guarantee that one may not be deprived of his rights, neither liberty nor property, without due process of law, the State's monopoly over techniques for binding conflict resolution could hardly be said to be acceptable under our scheme of things. Only by providing that the social enforcement mechanism must function strictly within these bounds can we hope to

maintain an ordered society that is also just. It is upon this premise that this Court has through years of adjudication put flesh upon the due process principle."

The Michigan Supreme Court has denied Petitioner her Fourteenth Amendment right to due process of law, in violation of the principles of law set forth in Boddie, supra, by denying Petitioner's Complaint for Superintending Control. The power of the Michigan Supreme Court to exercise superintending control over the Michigan Court of Appeals is set forth in the Michigan Constitution: art 6, §§1 and 4; in the Michigan Revised Judicature Act: §219; MCTA 600.219; MSA 27A.219 and §314(2); MCCLA 314(2); MSA 27A.314(2), which spe-

cifically provides that the Michigan Court of Appeals is subject to the superintending control power of the Michigan Supreme Court and the latter statute reads as follows:

"The court of appeals is subject to the superintending control power of the supreme court, and this section does not affect the exercise of that power, nor the issuance of writs by the supreme court pursuant to its constitutional power."

In failing to exercise its power of superintending control over the Court of Appeals and directing the Michigan Court of Appeals to decide Petitioner's appeal, the Michigan Supreme Court has deprived Petitioner of the due process of law guaranteed to her by the Fourteenth Amendment and it has also viola-

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ted the aforesaid decisions of the United States Supreme Court. For those reasons, Petitioner requests this Court to grant the Writ of Certiorari to review the decision of the Michigan Supreme Court and to accord Petitioner her constitutional right to due process of law by directing the Michigan Supreme Court to order the Michigan Court of Appeals to decide her appeal.

Respectfully submitted,

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AT A SESSION OF THE SUPREME COURT OF
THE STATE OF MICHIGAN, Held at the Su-
preme Court Room, in the City of Lan-
sing, on the 28th day of September in
the year of our Lord one thousand nine
hundred and eighty-seven.

81230

Present the Honorable
DOROTHY COMSTOCK RILEY

Chief Justice

CHARLES L. LEVN

JAMES H. BRICKLEY

MICHAEL F. CAVANAGH

PATRICIA BOYLE

DENNIS ARCHER

ROBERT P. GRIFFEN

Appendix

Associate Justices

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IRENA KALVANS,

Plaintiff,

v

COURT OF APPEALS,

Defendant.

On order of the Court, the complaint in propria persona for superintending control is considered, and relief is DENIED, because the Court is not persuaded that it should grant the requested relief.

STATE OF MICHIGAN - ss.

I, CORBIN R. DAVIS, Clerk of the Supreme Court of the State of Michigan, do hereby certify that the foregoing is a

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true and correct copy of an order entered in said court in said cause; that I have compared the same with the original, and that is a true transcript therefrom, and the whole of said original order.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Supreme Court at Lansing this 28th day of September in the year of our Lord one thousand nine hundred and eighty-seven.

/s/ Corbin R. Davis Clerk.

